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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,050	04/06/2001	Petr Peterka	GIC-555	2207
7590 06/29/2005			EXAMINER	
Barry R Lipsitz 755 Main Street Building 8 Monroe, CT 06468			KENDALL, CHUCK O	
			ART UNIT	PAPER NUMBER
			2192	

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/807,050

Applicant(s)

PETERKA ET AL.

Examiner

Chuck Kendall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-7,9,10,12, & 14 - 24 is/are pending in the application.
- 4a) Of the above claim(s) 4,8,11 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-7,9,10,12, & 14 - 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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***Detailed Action***

1. This action is in response to the application filed 03/30/05.
2. Claims 1 – 3, 5 – 7 & 9,10,12, 14 –24 are pending.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1 – 3, 5, 21 & 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Mills USPN 6,055,560.

Regarding claim 1, Mills anticipates, a method A television set-top terminal (FIG1, set top box. 108), comprising:

a computer readable, medium having computer program code (2:55 – 57)

; and

means for executing said computer program code to implement an

Application Programming Interface (API) wherein: (FIG. 2, API 152 and at 5:30 – 32);

application data which defines applications is recovered at the terminal according to locators associated with the applications (5:57-64, see panel stacking and back track (recover));

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the applications are registered and installed at the terminal (8:2-6, see install and download, also see 12:20 – 30 for update);

the API enables running and subsequent stopping of the applications (6:5-10, see stop button ); and

the API enables the retrieval of the applications as broadcasts software applications (4:60 – 65, see queue and broadcast, also see 8:15 – 20 for retrieving);

the API enables pausing of the applications once they are running, and subsequent resuming of the applications (5:10 – 15, see suspension and resume).

Regarding claim 2, the terminal of claim 1, wherein: a user is notified of the presence of the applications after registration and installation thereof (Col. 19: 23 – 25).

Regarding claim 3, the terminal of claim 1, wherein: said API enables the retrieval of the applications as downloadable software applications (8:3 – 6, see “retrieves appropriate panels to download”).

Regarding claim 5, the terminal of claim 1, wherein:

said API is independent of an operating system and hardware of the terminal (5:32 – 36, see “ without knowing the database language or which type of database is being used... ).

Regarding claim 21, the method version of claim 1, see rationale as previously discussed above.

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Regarding claim 22, the method version of claim 2, see rationale as previously discussed above.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6,7, 9, 10, 12,14 – 20, 23 & 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills USPN 6,055,560 in view of ITU-T/ ISO documents (hereinafter "ISO").

Regarding claim 6, Mills discloses a television set-top terminal (FIG.5, 108), comprising:

a computer readable medium having computer program code (2:55 – 57);

and

means for executing said computer program code to implement an Application Programming Interface (API) wherein:

application data which defines applications is recovered at the terminal according to locators associated with the applications (5:57-64, see panel stacking and back track (recover));

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the applications are registered and installed at the terminal (8:2-6, see install and download); and

the API enables particular ones of the applications to advertise their respective states to other applications (5:20 – 25). Although, Mills doesn't explicitly disclose providing an ITU-T X.731 based mechanism for monitoring and controlling the applications, wherein said ITU-TX.731 is an international standard which defines management states, status codes and state transitions for manageable objects, he does disclose a telecommunication system utilizing X.25 an earlier standard, see FIG. 5 and FIG. 6, 116, and associated text. However, ISO shows on page 4, that the X.731 is a Generic model for state management functions and has been around since (01/92).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Mills and ISO because, ITU-TX. 731 is a generic model for state management and would have enabled the system to be configured to more efficiently manage the application.

Regarding claim 7, the terminal of claim 6, wherein:

a user is notified of the presence of the applications after registration and installation thereof (Mills, 5:20 – 25, see current state).

Regarding claim 9, the terminal of claim 6, wherein:

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said API enables at least one of the other applications to access the advertised state of at least one of the particular advertising applications (Mills, 5:20 – 25, see current state).

Regarding claim 10, the terminal of claim 6, wherein:

said API enables retrieval of version information associated with the applications ( Mills, 8:1 – 5, see matching and retrieving appropriate panels to download).

Regarding claim 12, the terminal of claim 6, wherein: API enables verification of the integrity of all of the applications (Mills, 15:5 – 10, see “set top enabling code verifies”).

Regarding claim 14, the terminal of claim 6, wherein:

said API enables administrative locking and unlocking of the applications (Mills, 8:62 – 67, see lock bit).

Regarding claim 15, the terminal of claim 6, wherein:

said API enables particular ones of the applications to advertise respective alarm statuses thereof to other ones of the applications (Mills, 7: 12 – 15, see “ video information is then provided to the set top box 108 for purpose of display on the television 106”).

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Regarding claim 16, the terminal of claim 6, wherein:

said API enables particular ones of the applications to advertise respective availability statuses thereof to other ones of the applications (Mills, 5:20 – 25, see current state).

Regarding claim 17, the terminal of claim 6, wherein:

said API enables particular ones of the applications to advertise respective procedural statuses thereof to other ones of the applications (Mills, 7: 12 – 15, see “ video information is then provided to the set top box 108 for purpose of display on the television 106”).

Regarding claim 18, the terminal of claim 6, wherein:

said API enables particular ones of the applications to advertise respective operational states thereof to other ones of the applications Mills, 7: 12 – 15, see “ video information is then provided to the set top box 108 for purpose of display on the television 106”).

Regarding claim 19, the terminal of claim 6, wherein:

said API enables particular ones of the applications to advertise respective administrative states thereof to other ones of the applications (Mills, 7: 12 – 15, see “ video information is then provided to the set top box 108 for purpose of display on the television 106”).



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Regarding claim 20, the terminal of claim 6, wherein:

said API enables particular ones of the applications to advertise respective usage states thereof to other ones of the applications (Mills, 5:20 – 25).

Regarding claim 23, the method version of claim 6, see rationale as previously discussed above.

Regarding claim 24, the method version of claim 7, see rationale as previously discussed above.

### ***Response to Arguments***

7. Applicant's arguments, see page 4, 4<sup>th</sup> paragraph of response, filed 03/30/05, with respect to the rejection(s) of claim(s) 1 – 3, 5 – 7 & 9, 10, 12, 14 – 24 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. Examiner has however applied a new grounds of rejection.

Argument (1), regarding Applicant's argument on page 2 of Applicant's response (03/30/05), Applicant argues that in Mills the API is resident on the remote application server, while in Applicant's disclosure the API is resident in the set-top terminal itself.

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Response (1), while the plain language of Applicant's claims merely recites, "executing said computer program code to implement an Application Programming Interface (API)", Applicant appears to be arguing for a limitation not claimed. Applicant argues that Mills doesn't disclose the API is resident in the set-top terminal itself.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "API is resident in the set-top terminal itself") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Hence, Applicant's argument is moot.

Argument (2), Applicant also argues on page 3 of his response (03/30/05) that, "no applications are downloaded to the STB 108 of Mills".

Response (2), on 13:12 – 17, Mills discloses "the gateway 134 sends a "register message" 226 to the first Application that needs to be downloaded to the set top". Examiner believes this to be equivalent to Applicant's download.

And for sake of argument even if Mills didn't disclose this limitation as argued by Applicant, Applicant's disclosure doesn't preclude or exclude, downloading enabling code, which Applicant has argued as not being equivalent to downloading an application.

Argument (3), on page 4 of Applicant's response (03/30/05), Applicant argues that Mills does not disclose recovering of Application data according to locators associated with the applications.

Response (3), again Applicant's plain language of claim merely recites, "...application data which defines applications is recovered at the terminal ", Applicant claims calls for the Application being recovered, however what, how and why Application is recovering from is never mentioned. For example like recovering from a system error or system crash. Hence, recovering as claimed is being interpreted as back tracking and can even be interpreted as retrieving, since its reason for recovering is never disclosed. Examiner is interpreting recovering as being able to return to a previous state. If a state transitions back to what it was then that would be equivalent to just the plain language of recovering, see 5:62 – 65.

Argument (4), Applicant argues on page 4, 2<sup>nd</sup> paragraph of his response (3/30/05) that Mills doesn't disclose that the applications are "registered and installed at the terminal", and that Mills merely disclose the Applications being installed at the server.

Response (4), in 12:20 – 30, Mills shows receiving of flash updates from there the server to the set top box, which is then updated on the set up box

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(installed). As described Examiner believes this teaches Applicants claimed limitation of install the application.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-2723698. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-2723695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**WEI Y. ZHEN**  
**PRIMARY EXAMINER**

ck